

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 05-0514

**Income Tax
For Tax Years 2002-04**

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ISSUE

I. Income Tax—Individual

Authority: IC § 6-8.1-5-1; 45 IAC 3.1-1-2

Taxpayer protests imposition of individual income tax.

STATEMENT OF FACTS

Taxpayer is an individual. As the result of an audit, the Indiana Department of Revenue ("Department") determined that taxpayer had not reported the correct amount of income from a business. The Department issued proposed assessments for individual income tax based on this determination. Taxpayer protests the assessments. Further facts will be supplied as required.

I. Income Tax—Individual

DISCUSSION

Taxpayer protests the imposition of income tax. The Department examined taxpayer's total bank deposits after adjustments and the amount of income it reported from a taxpayer-run business and determined that taxpayer did not report the correct amount of income. The Department based its determination on 45 IAC 3.1-1-2, which states:

"Gross Income" Defined for Individuals. Indiana residents must report all income as defined by § 61 of the Internal Revenue Code. Sources of income include, but are not limited to:

- (1) Compensation for services, including fees, commissions and similar items
- (2) Gross income derived from business
- (3) Gains derived from dealings in property
- (4) Interest

- (5) Rents
- (6) Royalties
- (7) Dividends
- (8) Alimony and separate maintenance payments
- (9) Annuities
- (10) Income from life insurance and endowment contracts
- (11) Pensions
- (12) Income from discharge of indebtedness
- (13) Distributive share of partnership gross income
- (14) Distributive share of taxable income from an electing small business corporation
- (15) Income in respect of a decedent
- (16) Income from an interest in an estate or trust

Nonresidents and part-year residents are also required to report gross income, as defined above, from all sources. These taxpayers *[sic.]* are afforded a deduction for non-Indiana income as explained in Regulation 6-3-1-3.5(a)(050) [45 IAC 3.1-1-5].

The Department determined that taxpayer was liable for income tax on the amounts, after adjustments, deposited in its bank account.

As part of this protest, taxpayer provided adequate documentation to establish that it had several non-business related deposits, such as bank loans which are not subject to income tax, which inflated the amounts deposited in taxpayer's account. Under IC § 6-8.1-5-1(b), the burden of proving an assessment wrong rests with the person against whom the assessment is made. In this case, taxpayer has met the burden placed on it by IC § 6-8.1-5-1(b). Taxpayer reported the correct amount of income as required by 45 IAC 3.1-1-2.

FINDING

Taxpayer's protest is sustained.